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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,543	11/09/2000	Vikram Singh	GEMS8081.027	5413

27061 7590 06/03/2005

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)  
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EXAMINER
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RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/710,543

**Applicant(s)**

SINGH

**Examiner**

Andrew Joseph Rudy

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 30-48 is/are pending in the application.
- 4a) Of the above claim(s) 40-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 30-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-10 and 30-48 are pending.

***Election/Restrictions***

2. Claims 40-48 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 9, 2005.
3. Applicant's election with traverse of Group I, claims 1-10 and 30-39 in the reply filed on March 9, 2005 is acknowledged. The traversal is on the ground(s) that the claims are interrelated, no basis for the restriction requirement has been established by the Examiner and there is no reason for insisting on the restriction. This is not found persuasive because the grounds for restriction were clearly laid out from the previous Office Action. The fact that Applicant is not aware of election by original presentation does not negate the restriction requirement. Applicant further states that nearly every element of claim 40 is related to an element of one or more claims in Group I. However, being related to a corresponding method claim does not preclude restriction practice as the meet and bounds of the various claims differ. Also, the proffered basis for credit worthiness has been contested. Though the claims 4 and 36 cited by the Applicant do contravene the Examiner's basis. Nonetheless, it is noted that the systems claims may further be used for an on-line auction or securities trading. Finally, an additional search and burden would be added if all claims were examined, as previously stated.

The requirement is still deemed proper and is therefore made FINAL.

***Specification***

4. The substitute abstract submitted March 9, 2005 is acceptable.

***Claim Rejections - 35 USC § 103***

5. Claims 1-10 and 30-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett et al., US 6,029,144.

Applicant is directed towards the previous Office Action regarding Barrett, in view of Official Notice. It is further noted that Barrett is analogous art to Applicant's inventive concept in that it discloses an electronic system incorporating screening processes. Applicant's REMARKS stating that the claimed invention is directed towards a system for electronic transactions and sales, which includes cash inflows between business and its customers is not consistent the claims, i.e. claim 1. Thus, it is not convincing. Applicant's attempt at traversing the Official Notice findings as stated in the previous Office Action mailed January 12, 2005 is inadequate. Adequate traversal is a two step process. First, Applicant must state their traversal on the record. Second, and in accordance with 37 C.F.R. § 1.111(b) which requires Applicant to specifically point out the supposed errors in the Office Action, Applicant must state why the Office Action statements are not to be considered common knowledge or well known in the art.

In this application, while Applicant has clearly met step (1), Applicant has failed step (2) since they have failed to argue why the Official Notice statements are not to be considered common knowledge or well known in the art. Applicant's blanket statement from page 16 of the REMARKS about the "invention as claimed" does not specifically address the portion that was taken as Official Notice and the portion that was not. Because Applicant's traversal is inadequate, the Official Notice statements are taken to be admitted as prior art. See, MPEP § 2144.03

6. Further pertinent references of interest are noted on the attached PTO-892.

### ***Conclusion***

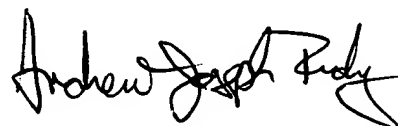
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew Joseph Rudy  
Primary Examiner  
Art Unit 3627